

# DISCUSSION OF THE AMENDMENT

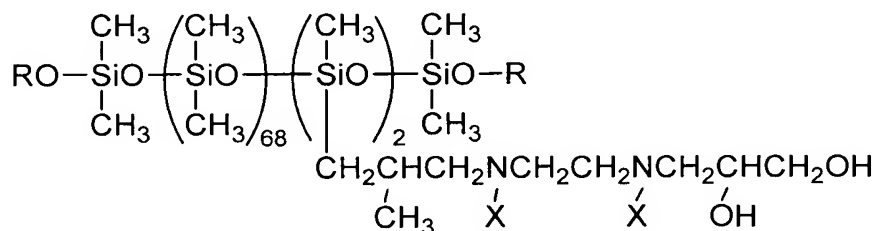
Due to the length of the specification herein, Applicant will cite to the paragraph number of the published patent application (PG Pub) of the present application, i.e., US 2006/0166845, when discussing the application description, both in this section and in the Remarks section, *infra*, rather than to page and line of the specification as filed.

Claim 1 has been amended by limiting Component (a) to that of Claim 10; limiting Component (b) to a smaller group of carboxylic acids as supported by Claim 5; by limiting Component (c) to the product 8500 Conditioning Agent of Dow Corning Corp., described in the specification at paragraph [0025] and employed in the present examples, as shown in Table 1 at paragraph [0075].

Claims 4, 5, 10 and 11 have been canceled.

New Claims 23 and 24 have been added. These claims are supported by the examples.

Applicant believes that the formula for Dow Corning 8500 Conditioning Agent described in the specification is incorrect. Applicant believes that the correct formula is



wherein R is C<sub>13</sub>H<sub>27</sub> to C<sub>15</sub>H<sub>31</sub> and X is 75% of -CH<sub>2</sub>CH(OH)CH<sub>2</sub>OH and 25% of hydrogen atom. However, Applicant has not been able to verify that the above is the correct formula and for that reason, the specification has not been amended and Claim 1 has been amended by reciting the product *per se*. **Submitted herewith** is a product information brochure demonstrating that the product Dow Corning 8500 Conditioning Agent is well-known.

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Reply to Office Action of October 6, 2009

No new matter is believed to have been added by the above amendment. Claims 1, 7, 9, 12-16 and 18-24 are now pending in the application. Of these claims, Claim 20 stands withdrawn from consideration.

REMARKS

Applicant thanks the Examiner for the courtesy extended to Applicant's attorney during the interview held March 9, 2010, in the above-identified application. During the interview, Applicant's attorney explained the presently-claimed invention and why it is patentable over the applied prior art. The discussion is summarized and expanded upon below.

The rejections under 35 U.S.C. § 103(a) of:

(1) Claims 1, 4, 5, 7, 9-16, 18, 19, 21 and 22 as unpatentable over US 6,528,070 (Bratescu et al) in view of US 6,171,515 (Evans et al), US 6,262,007 (Scialla et al), US 6,838,427 (Ushio et al) and US 2002/0077265 (Buzzacarini et al);

(2) Claims 1, 4, 5, 7, 9-16, 18, 19 and 21 as unpatentable over Ushio et al in view of Scialla et al and Evans et al;

(3) Claim 22 as unpatentable over Ushio et al in view of Scialla et al and Evans et al, and further in view of Buzzacarini et al; and

(4) Claims 1, 4, 5, 7, 9-16, 18, 19, 21 and 22 as unpatentable over Scialla et al in view of and Evans et al, Ushio et al and Buzzacarini et al,  
are respectfully traversed.

The disclosures of Bratescu et al, Evans et al and Scialla et al and the deficiencies in their combination, have been discussed in previous responses, which responses are hereby incorporated by reference.

Ushio et al discloses a clothes softener composition comprising a combination of (a) a particular tertiary amine or quaternary ammonium salt, (b) a different tertiary amine or quaternary ammonium salt from (a), and (c) a sulfate- or sulfonate- based anionic surfactant containing 8 to 36 carbon atoms, wherein  $[(a)+(b)]/(c) = 9/1$  to  $4/6$  (column 1, line 58 to column 2, line 55). Ushio et al discloses further that it is preferable to include a solvent

having a log P of 0.2 to 3 (column 6, line 64ff) and lists various alcohols and glycol ethers as applicable solvents, including 2-benzyloxyethanol, *inter alia*, as a preferable solvent (column 8, line 23).

Buzzacarini et al discloses fabric laundry articles in multi-compartment containers in which non-reactive laundry-treating ingredients having different functions are separated [0011]. Among optional components disclosed are solvents [0171]-[0173]. Suitable solvents listed include ethanol, isopropanol, propylene carbonate, etc [0174].

The Examiner's rationale for rejection (1) is essentially the same as previous rejections relying on Bratescu et al, Evans et al, and Scialla et al, but the Examiner now relies on Ushio et al for a disclosure of 2-benzyloxyethanol as an organic solvent and Buzzacarini et al for a disclosure of propylene carbonate as an organic solvent. Thus, the Examiner finds that Bratescu et al does not disclose the specific amounts of carboxylic acids, specific silicone derivatives or a composition having the specific pH containing an anionic surfactant, a carboxylic acid, a silicone derivative, and the other requisite components of the composition in the specific amounts as recited by the present claims. The Examiner holds that it would have been obvious to employ the specific silicone derivative of Evans et al and an acid pH adjusting agent such as succinic acid or maleic acid, as disclosed by Scialla et al, in the composition of Bratescu et al, and to use either Ushio et al's 2-benzyloxyethanol or Buzzacarini et al's propylene carbonate, disclosed as equivalent to propanol or isopropanol, as an organic solvent.

The Examiner's rationales for rejection (2) is that it would have been obvious to employ the specific silicone derivative of Evans et al and an acid pH adjusting agent such as succinic acid or maleic acid, as disclosed by Scialla et al, in the composition of Ushio et al, and for rejection (3), that it would have been further obvious to employ Buzzacarini et al's propylene carbonate as a solvent.

The Examiner's rationale for rejection (4) is that it would have been obvious to employ the specific silicone derivative of Evans et al, and to use either Ushio et al's 2-benzyloxyethanol or Buzzacarini et al's propylene carbonate, disclosed as equivalent to propanol or isopropanol, as an organic solvent, and the clothes softener components (a) and (b) of Ushio et al, in the composition of Scialla et al.

In reply to all of the above rejections, while Applicant submits that a *prima facie* case of obviousness has not been made out, nevertheless, the above-amended claims are now reasonable commensurate in scope with the comparative data in the specification, as Applicant's attorney noted during the above-referenced interview. Examples 1-3 are according to the present invention; Comparative Examples 1-3 are for purposes of comparison. Comparative Example 1 contains the presently-recited components but in an amount such that the pH is 6.0 when diluted to 20 times the weight of water. Comparative Examples 2 and 3 omit the presently-recited silicone derivative of Component (c). However, Comparative Example 3 contains an amino-modified silicone different from the silicone derivative of Component (c). The examples and comparative examples were tested for various properties as described in the specification beginning at paragraph [0055]. The results are shown in Table 1 at paragraph [0075]. As the data show, the examples receive the highest rating for each of the four properties evaluated. The comparative examples, on the other hand, were significantly inferior. In addition, Examples 4 and 5, which include lactic acid as part of Component (b), produced results comparable to Examples 1-3.

The above-discussed results could not have been predicted by the applied prior art. Indeed, the applied prior art is not even directed to a hair detergent composition and thus, could not have possibly predicted such results.

Finally, while the Examiner relies on Evans et al for a disclosure of a particular silicone derivative, and as pointed out by Applicant's attorney during the interview, Evans et

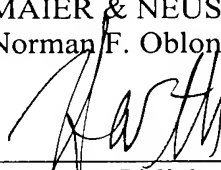
al is substantially broader than the presently-recited silicone derivative of the above-amended claims. Without the present disclosure as a guide, one of ordinary skill in the art would not have chosen this particular silicone derivative.

For all the above reasons, it is respectfully requested that these rejections be withdrawn.

All of the presently-active claims in this application are now believed to be in immediate condition for allowance. The Examiner is respectfully requested to rejoin Claim 20 and in the absence of further grounds of rejection, pass this application to issue with all pending claims.

Respectfully submitted,

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